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he Supreme Court of the United States

No. 2. Original. October Term, 1913.

COMMONWEALTH OF VIRGINIA,

v.

STATE OF WEST VIRGINIA.

In Equity.

MOTION OF THE COMPLAINANT.

CLYDE W. SAUNDERS, PRINTER, RICHMOND, VA.

RICHMOND, VA., September 22, 1913.

To the Honorable A. A. Lilly,

Attorney General of West Virginia,

Charleston, West Virginia.

Please take notice that in the suit of the *Commonwealth of Virginia* v. *The State of West Virginia*, No. 2 Original, pending in the Supreme Court of the United States at Washington, D. C., I shall on Monday, the 13th day of October, 1913, move the said court to proceed with a further hearing and determination of said case, and to settle and determine all questions left open and undetermined by its decision rendered on the 6th day of March, 1911, and will base said motion on the record of the case and the facts stated in the within statement in writing, and exhibits filed therewith.

Respectfully,

COMMONWEALTH OF VIRGINIA,

By SAMUEL W. WILLIAMS,

Attorney General of Virginia.

In the Supreme Court of the United States

No. 2. Original. October Term, 1913.

COMMONWEALTH OF VIRGINIA,

v.

STATE OF WEST VIRGINIA.

In Equity.

MOTION OF THE COMPLAINANT.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The Commonwealth of Virginia, through Samuel W. Williams, her Attorney General, respectfully shows to the court:

1. That in the opinion of this court, delivered on March 6, 1911, by Mr. Justice Holmes, having ascertained the amount of $7,182,507.46 to be West Virginia's share of the principal debt, said:

> "We think it best at this stage to go no further, but to await the effect of a conference between the parties, which, whatever the outcome, must take place."

2. That on February 21st, 1913, the legislature of West Virginia, sitting in regular session, adopted a joint resolution, in words and figures as follows: viz.:

"CONFERENCE COMMITTEE'S SUBSTITUTE FOR HOUSE SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 5.

(Adopted February 21, 1913)."

"Creating a commission, known as the Virginia debt commission, provide for arranging and settling with the Commonwealth of Virginia the proper proportion of the public debt of the original Commonwealth of Virginia, if any should be borne by West Virginia, to take into consideration all matters arising between the Commonwealth of Virginia and the State of West Virginia in reference to said original public debt, and to report its proceedings to the governor of the State.

"Whereas, the Commonwealth of Virginia instituted a suit in the Supreme Court of the United States against the State of West Virginia, to have the State of West Virginia's proportion of the public debt of Virginia as it stood before one thousand eight hundred and sixty-one, ascertained and satisfied; and,

"Whereas, at the October term, one thousand nine hundred and ten, the Supreme Court of the United States made a finding that the share of the principal debt of the original Commonwealth of Virginia to be borne by the State of West Virginia, was seven million one hundred and eighty-two thousand six hundred and seven dollars and forty-six cents; and,

"Whereas, said court did not fully and finally decide the question involved, but suggested that such proceedings and negotiations should be had between the States upon all the questions involved in said litigation, as might lead to a settlement of the same; therefore, be it

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

"That a commission of eleven members, known as the Virginia debt commission is hereby created. The members of said commission shall be appointed by the governor, two

of whom shall be chosen from each congressional district of the State, and one at large, not more than six of whom shall belong to any one political party, and all resignations or vacancies in the said commission as they occur shall be filled by the appointment of the governor.

"Said commission is authorized and directed to negotiate with the Commonwealth of Virginia, or with any person or committee owning or holding any part of the said indebtedness for a settlement of West Virginia's proportion of the debt of the original Commonwealth of Virginia proper, to be borne by the State of West Virginia.

"The commission is hereby directed to ascertain and report upon and give the utmost publicity to all the facts in relation to the pending suit instituted against the State of West Virginia by the Commonwealth of Virginia and to ascertain and report upon and give like publicity of all of the facts and conditions under which the West Virginia certificates are held or owned, together with the names and residences of the persons having the legal or equitable right to receive from West Virginia whatever may be ascertained to be payable thereon.

"To ascertain and report as to any part of the Virginia debt claimed against the State of West Virginia, which is owned or held or claimed to be due, at law or in equity, by the Commonwealth of Virginia in her own right; and having made the investigation required hereby, said commission is authorized and directed to negotiate with the Commonwealth of Virginia for a settlement of West Virginia's proportion of the debt of the original Commonwealth of Virginia proper, to be borne by the State of West Virginia.

"A majority of said commission shall have authority to act. The commission shall choose its chairman and appoint its secretary and other necessary officers.

"The expense properly incurred by the commission and its individual members, including compensation of said members at the rate of ten dollars per day for the time actually

employed, shall be paid by the State out of the moneys appropriated for said purpose.

"The commission shall make a report to the governor as soon as practicable, and upon receipt of said report the governor shall convene the legislature for the consideration of the same.

"The commission is hereby authorized to sit within or without the State and to send for papers and records and to examine witnesses under oath."

3. That pursuant to said joint resolution, the governor of West Virginia did appoint the eleven members of the debt commission therein provided for, and that on a later day the Honorable John W. Mason, of Fairmont, West Virginia, was chosen as the chairman of such commission. That after correspondence between Governor Hatfield, of West Virginia, and Governor Mann, of Virginia, filed herewith as "Exhibit A," the chairmen of the commissions of the two States arranged that the proposed joint conference between the States through their respective commissions, should be held at the New Willard Hotel, in the city of Washington, on the 25th day of July, 1913.

4. That on the day appointed the two commissions did meet in joint conference, and the proceedings of said joint conference, stenographically reported, were as shown in "Exhibit B" herewith filed as a part hereof, for the information of the court.

That said joint conference, after the foregoing proceedings were had, adjourned to meet at the same place on the 12th day of August, 1913. That on the 8th day of August the Honorable John W. Mason, chairman of the West Virginia Commission, notified the Honorable John B. Moon, chairman of the Virginia Debt Commission, by telegraph as follows, viz.:

"Fairmont, W. Va., August 8, 1913.

John B. Moon,
Charlottesville, Virginia.

Certain of our debt commission will not be ready for meeting Tuesday. Members have not had time enough for investigation. We meet at Charleston next Monday and would have to ask that time be extended to a day in the near future. Under these circumstances I suggest Washington meeting be now recalled.

(Signed) John W. Mason.

The notice and agreement for the meeting to be held on the 12th of August was accordingly recalled.

The Commonwealth of Virginia, in view of the recitals and facts herein stated and contained, respectfully moves the court that the cause be speeded so that a final decree may be made therein and this controversy brought to a close.

COMMONWEALTH OF VIRGINIA.
By SAMUEL W. WILLIAMS,
Attorney General of Virginia.

EXHIBIT A.

STATE OF WEST VIRGINIA,
EXECUTIVE DEPARTMENT,
CHARLESTON.

June 10, 1913.

Honorable William Hodges Mann,
Governor of Virginia,
Richmond, Virginia.

Dear Sir: I have the honor to report to you that the regular session of the West Virginia Legislature of 1913 passed House Joint Bill No. 5, raising a commission of citizens of our State to be appointed by the governor, to meet a like commission upon the part of the State of Virginia, to discuss and, if possible, arrive at some mutual agreement looking to the amicable settlement of the Virginia debt dispute now pending in the Supreme Court of the United States, said suit being styled and known on the docket as the *Commonwealth of Virginia* v. *The State of West-Virginia.*

A copy of the resolution adopted by the West Virginia Legislature I herewith attach.

The resolution requires the commission to report their findings to a subsequent session of the legislature.

The commission is composed of the following citizens of our State:

Hon. Henry Zilliken, of Wellsburg, county of Brooke.

Hon. John W. Mason, of Fairmont, county of Marion.

Hon. J. A. Lenhart, of Kingwood, county of Preston.

Hon. William T. Ice, of Philippi, county of Barbour.

Hon. U. G. Young, of Buckhannon, county of Upshur.

Hon. Joseph E. Chilton, of Charleston, county of Kanawha.

Hon. R. J. A. Boreman, of Parkersburg, county of Wood.

Hon. John M. Hamilton, of Grantsville, county of Calhoun.

Hon. William D. Ord, of Landgraff, county of MacDowell.

Hon. Joseph S. Miller, of Kenova, county of Wayne.

Hon. W. E. Wells, of Newell, county of Hancock.

The commission met in the governor's reception room on June 10, 1913, and organized by electing the Hon. John W. Mason, of the city of Fairmont, chairman, and the Hon. John T. Harris, of the city of Parkersburg, secretary.

I beg to advise that said commission now awaits the pleasure of the Virginia Commission.

The next regular meeting of the West Virginia Debt Commission will be held in the governor's office on July 22, 1913.

The commission directs me to say to you, and through you to the proper representatives of the Virginia Commission, that they will be pleased to meet the Virginia Commission at any time after July 22, 1913, that the said Virginia Commission may indicate where it would be agreeable to hold a joint meeting of the commissions.

Any communications sent to this office, or to the president or secretary of the West Virginia Commission will receive prompt consideration.

Respectfully yours,

(Signed) H. D. Hatfield,

HDH:MP Governor.

COMMONWEALTH OF VIRGINIA,
GOVERNOR'S OFFICE,
RICHMOND.

June 20, 1913.

Hon. John B. Moon, Chairman,
Virginia State Debt Commission,
Charlottesville, Virginia.

Dear Colonel: I enclose a communication from the Governor of West Virginia, and a copy of the act of assembly of

that State, adopted on the 21st of February, 1913, which explain themselves. I trust it will be the pleasure of your commission to have an early meeting and to communicate with the commission of West Virginia, to the end that every possible effort may be made on our part to settle the matters in dispute between the two States.

Very truly yours,

(Signed) Wm. Hodges Mann,

Governor.

Encs.

EXHIBIT "B"

Proceedings of a Joint Conference

BETWEEN THE

VIRGINIA DEBT COMMISSIONS

OF THE

STATES OF VIRGINIA AND WEST VIRGINIA

HELD AT

THE NEW WILLARD HOTEL

WASHINGTON, D. C.

July 25 and 26 1913

EXHIBIT B.

PROCEEDINGS OF A JOINT CONFERENCE BETWEEN THE VIRGINIA DEBT COMMISSIONS OF THE STATES OF VIRGINIA AND WEST VIRGINIA.

Washington, D. C., July 25, 1913.
New Willard Hotel.

The commissions of Virginia and West Virginia met at 11:30 o'clock A. M., pursuant to notice, Chairman Moon, of Virginia, and Chairman Mason, of West Virginia, presiding.

Chairman Moon: I have been instructed, gentlemen, to present to you, for your consideration, the following resolutions:

Resolved, That it is the sense of this commission that in the conference to be held this day with the West Virginia Commission, the subject for consideration and adjustment, as indicated by the court in its decision in this case, is the amount of interest which West Virginia should pay upon the sum ascertained by the court to be West Virginia's share of the principal of said debt.

2. This commission desiring to carry out in good faith the suggestions made by the Supreme court as to securing an amicable adjustment of the amount of interest which should be paid by West Virginia upon the principal of the debt as ascertained and decided by the court, and realizing that it is not the desire of Virginia nor was it the intention of the Supreme court that Virginia should ask or demand the full or legal amount of interest upon the principal debt as ascertained in the decision of the court, but that there should be concessions made upon both sides, such as comport with justice and the honor and dignity of the two States; and

Whereas, the joint conference to be held to-day between the commissions of Virginia and West Virginia was invited by the authorities of West Virginia, presumably for the purpose of carrying out in good faith the decision and suggestion of the Supreme Court of the United States.

Therefore, be it resolved, That this resolution, together with all other resolutions adopted by this commission at its present session, which may be pertinent, be presented by the chairman of this commission, to the commission of West Virginia at the joint conference to be held to-day, and that the commission of West Virginia be respectfully requested to communicate to this commission, what, in their judgment, would be a fair and just settlement of the interest to be paid by West Virginia upon the principal amount as ascertained in the opinion and decision of the Supreme Court of the United States.

Chairman Mason, of West Virginia: Referring to the resolutions which have just been presented to us on behalf of the commission of Virginia, I would say for the commission of West Virginia that it was not our expectation that this conference was to be confined to the consideration of only the question of interest. Our idea had been that the scope of the conference would be wider, and that we would confer together and take up the whole case, principal and interest. We thought that was what we were to meet here for.

It is my understanding that we, as commissioners, representing the two States, have the power to ascertain what is West Virginia's equitable proportion of the debt, if anything. I thought that was one of the things we were to get at, and try to reach a basis of settlement.

I do not feel that we should be confined solely to the consideration of the one question, namely, the question of interest.

Chairman Moon, of Virginia: I would say, gentlemen,

that Mr. Randolph Harrison has been selected as spokesman for the Virginia commission, to present the matter to you as we view it, and I will now call on Mr. Harrison.

REMARKS OF MR. RANDOLPH HARRISON OF THE VIRGINIA COMMISSION.

Mr. Harrison: Mr. Chairman and gentlemen: The resolutions which have been presented to you for consideration by the chairman of the Virginia commission, contain a statement of what the Virginia commission conceives to be the question to be considered by the two commissions, and an expression of the spirit in which the Virginia commission enters upon this joint conference.

The first resolution declares it to be the sense of the Virginia commission that the subject before the two commissions for consideration and adjustment is, as indicated by the court in its decision, the amount of interest which West Virginia should pay upon the sum ascertained by the court to be West Virginia's share of the principal of the debt.

The second resolution assumes that the West Virginia commission has invited this conference for the purpose, and with the expectation, if possible, of carrying out in good faith the suggestion of the court in respect to an adjustment of the question of interest, and at the same time states that it is not the purpose of Virginia to exact, nor does this commission believe it to be the intent of the court that Virginia should exact the full amount of interest shown by the record to be due on the share of the principal of the debt ascertained by the court to be West Virginia's.

The Virginia commission enters upon this conference with you in a spirit of absolute frankness, and with the earnest desire to reach an adjustment of this unsettled question. To accomplish this result we recognize that there must be concessions made upon both sides, such as comport with justice and the honor and dignity of the two States. With that end in view we ask the West Virginia commission to advise what,

in their opinion, would be a fair amount for West Virginia to pay in compromise and settlement of the amount of interest due on her share of the principal of the debt.

The chairman of the West Virginia commission has indicated that his commission did not expect this conference to be confined to the consideration of the question of interest alone; that a wider field of inquiry was in contemplation by that commission—a field which would involve a review of the merits of the case, and a determination of the amount of principal, as well as interest which, in the judgment of the West Virginia commission, should be paid by West Virginia.

I will, as briefly as I can, state what we conceive to be the object that the court had in view in suggesting this conference.

In its decision the court used this language: "We have given our decision with respect to the basis of liability, and the share of the principal of the debt of Virginia that West Virginia assumed."

It will be seen, therefore, that the basis of West Virginia's liability, and the share of the principal of the debt for which she is liable, are questions which have been removed from the realm of controversy, or of debate, or of further investigation: they have been judicially settled at the end of several years of litigation.

In this connection it is a pleasure for me to say that West Virginia has had the benefit in this case of able, industrious and zealous counsel, who have not lost an opportunity to present her side of it in the strongest aspect possible. One of these gentlemen I see here to-day, Mr. McClintic. I will venture to say that there is no man connected with this litigation more familiar with its details, and none of West Virginia's counsel has rendered more faithful or efficient service, than he.

You must bear in mind, gentlemen, that when the ground has been covered, as it has been, by able counsel, and the case heard by the highest court in the land, the questions settled

by the decision of that court no longer remain open for dispute or investigation.

Continuing, the court said: "In any event, before we could put our judgment in the form of a final decree, there would be figures to be agreed upon, or to be ascertained by reference to a Master. Among other things there still remains the question of interest."

We have seen that "the basis of liability and the share of the principal of the debt that West Virginia assumed," are decided questions, but there were "other things" to be considered and settled by the court before it could put its judgment "in the form of a final decree," and among these other things is the question of interest, which question the court referred to the two States for adjustment, if an adjustment could be reached, the court stating that if the matter was pressed contentiously it would be referred to the Master, to make such calculations as might be necessary.

It has never been suggested to us before that West Virginia entertained the idea that it would be competent or proper for us to ignore the decision of the court and take jurisdiction of the entire subject matter and enter upon an investigation of the merits of the case.

Two years ago, in advance of the meeting of the West Virginia legislature in extra session, the Virginia commission laid before the governor of West Virginia the decision of the court, and requested that he would ask the legislature to appoint representatives to confer with us in regard to the question of interest, which had been referred to the two States by the court. The matter, however, was not dealt with by the legislature, and at the ensuing term of the court, in October, 1911, Virginia moved the court to speed the cause, on the ground that West Virginia had not indicated any purpose, or intention, to carry out the suggestion of the court. West Virginia, through her counsel, filed an answer to this petition, in which it was not once suggested that there was any misapprehension on the part of Virginia in respect to the ques-

tion to be considered by the two States. But the contention of West Virginia, through her counsel, was that no action should be taken by the court until the legislature of West Virginia had an opportunity in regular session to consider the matter. Therefore, this is the first time, as I have already stated, that the suggestion has been made to any one representing Virginia, that West Virginia contemplated a reopening of the case and a consideration of the whole matter upon its merits. For the reasons that I have stated, gentlemen, the Virginia commission could not consent to this course. We cannot consent to go behind the decision of the court and take up and consider any question which has been decided by the court.

The resolutions which have been presented to you on the part of the Virginia commission embody its views in respect to the scope of this conference, and invite you to communicate to us what, in your opinion, would be a fair basis of settlement of the question of interest. I trust it will be the pleasure of the West Virginia commission to consider the matter in this aspect.

We also recognize the fact that it is competent for the two commissions to consider the question of settlement of the entire controversy, precisely as we might do if there were no other question pending before us, and, if it is the pleasure of the West Virginia commission to take up that question and communicate to the Virginia commission at this conference a proposition looking to a compromise settlement of the whole controversy, we will be glad to receive it, and will give it respectful and fair consideration.

Your chairman has indicated that the West Virginia commission, perhaps a majority of them, are not familiar with the details of this litigation, or the grounds upon which it has proceeded. It may be well enough for me, therefore, to say something in regard to the general subject, inasmuch as you may be viewing it from an angle that you would not view it from, if you were more fully advised.

The questions of West Virginia's liability for a just proportion of this debt, and the amount of that just proportion, were the questions considered by the court. West Virginia denied all liability, and denied the court's right to take jurisdiction of the case, but the court, after elaborate argument, overruled all of her objections. I know it is customary for West Virginians in referring to this case to say that the judgment of the court will amount to nothing, as there is no way of enforcing it. That question was urged before the court by West Virginia's counsel in the argument upon the demurrer, but the court, in referring to this subject in its opinion overruling the demurrer, said: "It is not to be presumed that West Virginia would refuse to carry out the decree of this court. If such repudiation should be absolutely asserted, we can then consider by what means the decree may be enforced."

I think we may safely assume that the court will consider the means of enforcing its decree, if it should ever reach that question, but the court evidently does not consider that result a possibility, as is clearly indicated by the language of the opinion, to the effect that the court will not "presume that West Virginia will refuse to carry out the decree of this court."

It is proper for me to say that no man connected with this litigation on Virginia's side, anticipates that any such stage of the proceedings will ever be reached. There is a power oftentimes more effective than courts to constrain, not only communities, but individuals, to do what is right, namely, the power of public opinion. Speaking for myself I can say that I have never entertained the thought that the State of West Virginia would deliberately repudiate a finding of the Supreme Court of the United States, because I do not believe the sentiment of her people would countenance any such course. Therefore, gentlemen, considerations which involve the repudiation by West Virginia of her liability in this case, have not influenced, and should not influence us in performing the duty now imposed upon us.

I do not think the people of West Virginia understand the nature of the obligation which rests upon them in respect to the liability of their State for a just proportion of this debt. They do not realize that this obligation was assumed in the first step taken towards the formation of the State of West Virginia, and was again assumed in her Constitution, adopted on the 26th of November, 1861, which not only bound the new State to bear a just proportion of the public debt of Virginia, but required her legislature to ascertain the same and provide for its payment. The State of Virginia (the restored State of Virginia) gave its consent by legislative enactment to the creation of the new State of West Virginia "under the provisions set forth in the constitution for the State of West Virginia." Those two instruments were laid before Congress, and on the faith of them Congress gave its consent to the admission of the new State into the Union. The court rests its decision in this case on the ground that West Virginia is bound by a solemn contract to bear a just proportion of this debt—a contract contained in her fundamental law, and to which Virginia and the Congress of the United States assented. The court, in considering that question, and basing her liability upon her solemn constitutional promise, made as a condition to her Statehood, said: "West Virginia must therefore be taken to have *promised* to pay to Virginia her share."

You must understand, gentlemen, that no State can be carved out of an existing State without the consent of the parent State, and in this case the consent of Virginia was given to the division of her territory on condition that West Virginia would bear a just proportion of her debt; and the consent of Congress was based upon the same condition. An eminent citizen of your State, who has wielded there the sceptre of power, made an argument in this case before the Master, in the course of which he took the ground that West Virginia made this promise because she knew she could not be admitted into the Union without it, and that it was made

for the sole purpose of inducing Congress to admit her. In other words, that her promise was made to gain her political existence. The record in this case fully attests the accuracy of the statement that but for West Virginia's promise to assume a just proportion of the debt of Virginia, Congress would never have admitted her into the Union. Senator Sherman so stated in his correspondence with Senator Willey, and Senator Willey, who was an actor in those scenes and participated in the steps which led up to the formation of the State of West Virginia, made the following statement in his correspondence with Senator Sherman (all of which appears in the record): "I say to you now what I have said to the people of West Virginia, that but for that clause in her Constitution the State would never have been admitted. I say further, that in my opinion, no honest man or honest party in West Virginia, or out of it, will deny the obligation of West Virginia to pay an equitable part of the debt of Virginia."

You will hear it said in your State, because it has so often been said to me, gentlemen, "We do not owe any part of the debt because we did not get any of its benefits: none of the money was expended in West Virginia." That question is beside the mark. I will not stop now to consider it. It was settled by the court, and disposed of in the opinion of the court. But when the assertion is made that West Virginia derived no benefit from her promise to pay a just proportion of this debt, it should be remembered that at least she gained her political existence by it: that it was the price paid for Statehood.

Immediately after the war Virginia communicated to West Virginia a resolution, appealing to her to forget the past and to come back and be again a re-united Commonwealth. West Virginia lost no time in replying: she promptly answered that appeal with an emphatic "No." She preferred to remain an independent State, and was satisfied with the price she had paid for that privilege.

Do you think that the people of your State would continue in the belief that they do not owe any part of this debt if they understood these facts? Would they not take a different view of it if they were informed in respect to the basis of the liability of their State? If they understood that West Virginia had passed her word to bear a just proportion of this debt; that Virginia had given her consent to the separation on the faith of that promise, and that Congress, in reliance upon it, had admitted her into the Union, and that she was so well satisfied with the bargain that she refused the mother State's invitation after the war to re-unite with her, can there be any doubt that they would realize the obligation resting upon them, and feel that it was not creditable to keep it in the air, but that it was their duty to meet it like men, and settle it?

I firmly believe, gentlemen, that if men of courage and patriotism would inform the people of West Virginia of the real status of this issue, and of the ground upon which the liability of their State rests, that the majority of them, to say the least of it, would no longer seek to evade, or ignore it as something that did not concern them, but on the contrary they would insist on its being disposed of fairly and honestly. I really believe that their present attitude to the subject is due to the fact that they do not understand that there is a binding obligation upon the conscience of the people of West Virginia to perform her promise.

The court has said that "The liability of West Virginia is a deep-seated equity." Can you go back to your people and encourage in their minds the idea that they are under no obligation to respond to this liability which the court has said is founded in a deep-seated equity? The founders of West Virginia knew it was only just and right that, in dividing the territory of the mother Commonwealth, they should assume a part of the burden of this debt; they knew that they could not, in good conscience, deprive Virginia of a third of her territory and a third of her population and leave

her to carry the burden of debt which they had helped to create. We have the authority of Senator Willey for the statement that the promise made by himself and his associates on behalf of West Virginia, to bear her share of that burden, was made in absolute good faith, and with the full intention of carrying it out. Can it be possible that your people, if they understood these facts, would tolerate any action that would ignore that liability, or temporize with it? Would they not meet the issue like honest men? I believe they would. I am a firm believer in the Jeffersonian faith in the people. I believe that when the people are rightly directed they will do what is right. I believe a majority of them are moved by correct impulses, and that when they go wrong it is because they are ignorant, or misinformed.

I have expressed these general views about this case in the hope that your commission, composed, as it is, of representative men of your State, will be the medium of influencing the people of West Virginia to do what is right in respect to this matter.

The position of West Virginia heretofore, as indicated by her public men, has been that she would not recognize any liability to Virginia for a share of this debt unless that liability was established by the court. Several years ago I had the pleasure of addressing the legislature of West Virginia on this question, with a view to bringing about a friendly adjustment and to avoid the necessity of taking the controversy into court. I urged upon your representatives at that time the propriety of taking action, and the importance of a friendly adjustment of the question. Numbers of your public men said to me at that time that while they recognized that it was important to settle the question, there was no use in talking to the people about it; that they had been educated to believe they did not owe anything, and that the only way to convince them was to let the court say what they owed. That has now been done. The highest court in the land has spoken, and in the light of the opinion of the court it is

not open for any man to say that there is no obligation resting upon West Virginia; nor, in the light of that decision, is it open to any man to question the amount of the principal sum which she is obligated to pay.

The question of interest has been referred to us by the court for adjustment, if possible. We trust it will be your pleasure to take up that question with us and let us see whether it is possible to reach some conclusion that will be honorable to both States. We meet you in a hopeful spirit. No man can have any doubt about our earnest desire to reach a friendly adjustment of this controversy, and we are hopeful that such a body of men as we meet here to-day, will be the efficient instruments of bringing the people of their State to a just appreciation and recognition of her liability in this case.

We can not consent to open up the whole controversy, gentlemen, but we are ready to consider the question of interest. At least we can make an effort to adjust it. If the West Virginia commission desires to communicate to us a proposition to settle the whole controversy we will be glad to take up that question and consider it.

Chairman Mason, of West Virginia: What is the use of doing that, if you will not consider it?

Mr. Harrison: I say we will be glad to consider it.

Chairman Mason: But you say there is no authority to consider any question except that of interest. What is the use then of doing a vain thing?

Mr. Harrison: I hope it would not be a vain thing.

Chairman Mason: According to your statement it would would it not?

Mr. Harrison: I cannot tell you in advance of a proposition. I say we will be glad to consider a proposition. If you see fit to submit a proposition as to a settlement of the whole controversy we will be glad to receive it. I stated this in the beginning.

I hope the West Virginia commission do not understa

me as indicating it to be the sense of the Virginia commission, that we would not treat with you upon a settlement of the whole debt. We will be glad to do it. If the West Virginia commission has in mind negotiations along that line we will be glad to receive them, and will deal with them in the utmost spirit of frankness.

If that cannot be done; if West Virginia is not prepared to take up that question, then the only question open for us to consider is the question of interest. That is the only question referred to us by the court, as preliminary to further action by the court.

So many years have elapsed since this controversy has been pending that I hope, at least, we will come to some conclusion to-day; that we will either blaze the way to reach some result ourselves, or else make it apparent and clear that can not be done, so that the case may take its due course.

The Master's report contains in detail all of the data relating to the obligations put out by the original State of Virginia, upon which West Virginia is bound, and these are shown in detail, with the interest calculated thereon, in a green-covered pamphlet which is filed as an exhibit before the court. This pamphlet contains a list of all of the bonds taken from the Master's report, with the interest computed thereon, according to their tenor, upon the various bases of settlement that were then under consideration. The record furnishes complete data for the computation of the interest to be borne by West Virginia upon her share of the principal, as fixed by the court. It is not necessary, however, to go into any details about that at this time. The question before the West Virginia commission is the consideration of the two resolutions that we have communicated to them.

REMARKS OF MR. JOHN W. MASON, CHAIRMAN, WEST VIRGINIA COMMISSION.

Mr. Mason: Gentlemen, I want to say just a single word. I regret that the distinguished gentleman has seen fit to discuss the question, which he has, as to what West Virginia would do in case of judgment against us which we thought was a judgment from a court of competent jurisdiction. As to that we may say, as the Supreme Court said, if that contingency ever arises we will meet it, in a spirit that comports with the dignity of a great, loyal and law abiding State. We are not to be forced by any remarks in advance as to what is the equitable proportion, into giving an opinion of what we would do in case there is an adjustment.

Let me say a word as to another matter, if you will indulge a personal allusion. I am one of the men who voted for that constitution. I am one of the men who made that promise. It was my first vote. We made that promise. I, for one, have never had any inclination to, nor never thought of retracting it. But, for fifty years we have been asking, clamoring and demanding, trying in every way we knew how, to get at the question of what is our equitable proportion of that debt. Heretofore it has been newspaper correspondence and ex parte resolutions of legislatures, Virginia enacting such legislation as she saw proper, and West Virginia such legislation as she saw proper. After a while it got into the Supreme Court of the United States.

Now, gentlemen, I understood, and still understand, that it is to some extent at least before the commissioners representing the two States, who have the right and the power to ascertain and to answer the questions which I have been asking for fifty years, namely, what is West Virginia's equitable proportion of that debt, if anything?

I hope, gentlemen, you will not send us back to our constituents, saying we met a body with competent jurisdiction, authorized to answer that question, and you would not do it.

Instead you simply said that you would not discuss a compromise or talk with us but along one line. And we would go back home still with nothing except the finding of a court which, is my judgment, is not conclusive at all upon any subject except possibly the question as to the basis of settlement.

Congressman Flood: I think you entirely misunderstood Mr. Harrison. He distinctly stated at the beginning that the Virginia commission would be glad to receive a communication from you.

Mr. Mason: Yes, but that is as to the resolution, and the only question is the question of interest.

Mr. Harrison: As indicated by the court.

Congressman Flood: Mr. Harrison indicated that the Virginia commission was prepared, in response to some resolution that you might adopt, to go further.

Mr. Mason: Let me say this. If you mean by that, that the West Virginia commission, organized as it is, with only limited advisory power, recently appointed, without having opportunity to go over the question, is to formulate a proposition, not upon the principal, but upon the amounts, as to how the account stands between the two parties, whether we owe you anything or you owe us, and if so how much, of course we would not be prepared to do that at this time.

Chairman Moon, of Virginia: When would you be prepared to render a statement of that kind?

Mr. Mason: My idea, gentlemen, is that this is, to a very large extent, a matter of compromise between the two commissions. We want to meet in that light. We do not want to meet as if still carrying on a lawsuit. We can carry that on any time we want to. But we are here representing the litigants on the two sides, and we can agree, if we can agree at all, on a basis of settlement. And, further, after we know what that is, we may agree upon amounts.

Simply to say now that we will not talk about or discuss anything except the question of interest, why gentlemen, you place us in a very embarrassing position. I am sure you do not want to do that.

Mr. Moon: That is our view of the situation, but we would be glad to receive your counter suggestions, and have you state your views.

Mr. Mason: If you mean by that, gentlemen, to get down to the concrete and say, "West Virginia will pay you so much money," or, "Virginia owes us so much money," as to that we already have had two statements of that account in West Virginia. One statement brings West Virginia out a little in debt. The gentleman who made that statement, the principal man who made that report, was the old auditor of Virginia for eight years. Since that report there is another statement which says you owe us. So if you want to go into the concrete and say how the amount stands, gentlemen, we would ask you for further conference upon the matter. But if you want to insist simply that you are not going to talk about anything else, and consider nothing else but interest, the probabilities are that we could settle that question in a very short time. I hope that will not be the view of this commission.

Mr. Moon: Do you suppose that in thirty days you could formulate a suggestion?

Mr. Wells, (of West Virginia): I was about to make this suggestion, that we adjourn until 2 o'clock, for luncheon; that at that hour the West Virginia commission to meet to formulate its reply to the resolutions offered by the Virginia commission, and that the Virginia commission remain subject to our call, until we are ready to submit our reply.

Mr. Mason: Maybe I ought not to do this; if I ought not, pardon me. Suppose you withdraw this resolution, gentlemen, and let us meet as friends; and see whether or not we can settle this question, whether or not, Mr. Harrison, you can answer the questions that I have been propounding, as you and some other people know, in the last forty years, as to what is West Virginia's equitable proportion of the debt.

Mr. Moon: Our view is that the court has answered that question as to principal.

Mr. Mason: I do not want to take up the technical ques-

tion, that has been settled, especially in view of what the court said upon that subject.

Mr. Harrison: Our view is that the court has answered that vexed question as to the principal.

Mr. Mason: As to the principal?

Mr. Harrison: Yes, as to the principal.

Mr. Mason: The basis, you mean?

Mr. Harrison: Yes, and as to the amount, subject perhaps to any revision of figures that may be necessary. The very tribunal has answered the question which the public men of your State desired should answer it, rather than to have that responsibility upon them.

Mr. Mason: We do not understand the Supreme Court decision or opinion in that light. We do not consider at all that the Supreme Court has settled the amount. It has indicated a basis. It took a different one from yours or ours, either one. You suggested it upon the basis of population, and ours was upon taking the Wheeling ordinance. They said both were wrong, and in their report took the taxable values.

Mr. Harrison: Of course alternative bases were presented to the court.

Mr. Mason: Yes.

Mr. Harrison: But they adopted a basis by which they thought the fairest results would be attained, and on that basis have expressed an opinion as to the amount.

Mr. Mason: Yes, I say that, too.

Mr. Harrison: Now do not misunderstand me, if you please, Mr. Chairman, to indicate that it is the sense of the Virginia commission not to meet you gentlemen in the utmost spirit of frankness and consider the question of settling the whole controversy.

Mr. Mason: Suppose we just simply answer your first resolution no; there probably would be no answer to the second one, because nobody is going to say we want to put ourselves in opposition to the Supreme Court of the United States or any other court.

Mr. Moon: Which do you mean by the first one?

Mr. Mason: The one which says the only question is the matter of interest. That would be easily answered. As to the other, of course, gentlemen, you do not want to put us in that position and have us say we would place ourselves in opposition to the judgment or decree of the Supreme Court of the United States.

Mr. Harrison: Let me make this suggestion. I hope in the response your commission will make to the resolution, that if you think other questions than interest have been referred by the court to the two commissions for consideration, you gentlemen will kindly indicate what they are, in order that we may understand each other.

Mr. Mason: But, Mr. Harrison, we probably would not be ready now to go over and indicate the items which have been omitted. In order to make a settlement upon the basis suggested by the Supreme Court of course there are two things to be considered. One is the taxable value of the property of the two States. And they have omitted the slave property. The other is the actual amount of the debt.

Mr. Harrison: I suggest you put that in the form of a reply.

Mr. Mason: That may not be the only question, gentlemen.

Mr. Moon: I believe the suggestion has been made by Mr. Wells, which I think a wise suggestion, that we take an adjournment now until 2 o'clock and await the pleasure of the West Virginia commission, so far as we are concerned. You can notify us when you are ready to continue the conference.

(Thereupon, at 12:30 o'clock P. M., the joint conference was adjourned, subject to the call of the West Virginia commission.)

Conference Room of the Virginia Commission,
New Willard Hotel, Washington, D. C.,
5 o'clock, P. M.

At 5 o'clock, P. M., Chairman Mason, of the West Virginia commission, appeared before the Virginia commission and presented the following resolutions, which had been adopted by the West Virginia commission in reply to the resolutions presented to it in joint conference:

1. The debt commission on the part of the State of West Virginia having this day been handed the following resolution adopted by the debt commission on the part of the State of Virginia:

"Resolved, That it is the sense of this commission that in the conference to be held this day with the West Virginia commission, the subject for consideration and adjustment, as indicated by the court in its decision in this case, is the amount of interest which West Virginia should pay upon the sum ascertained by the court to be West Virginia's share of the principal of said debt."

In reply thereto says: that in its judgment the interest, if any, which should be paid to the State of Virginia as stated in the foregoing resolution, is not the only question, as indicated by the language used by the Supreme Court of the United States in its opinion, which the joint commission, now in session, should consider.

2. Whereas, the view of the Virginia debt commission on the part of West Virginia is that the present conference is for a preliminary discussion and exchange of views and for the added purpose of arranging a method for a more complete consideration of the matters involved, and adjusting a working programme; therefore, be it

Resolved, That the Virginia and West Virginia commissions shall each appoint a sub-committee, respectively, of

three members, with instructions to confer at the earliest convenient time and place and to thoroughly discuss all matters involved, and endeavor to reach a final proposition that shall be submitted back to the two respective commissions, separately, for consideration by each, and for final determination at a joint conference to be subsequently arranged between the chairmen of the two committees; but nothing herein contained shall prejudice the rights of either party.

After consideration of the above resolutions by the Virginia commission, Chairman Moon and the members of the Virginia commission proceeded to the conference room of the West Virginia commission.

Conference Room, West Virginia Commission,
New Willard Hotel, Washington, D. C.,
8 o'clock, P. M.

Chairman Moon, of Virginia: Gentlemen of the West Virginia commission, the Virginia commission has adopted the following resolutions in response to your resolutions of this afternoon:

The Virginia commission, having received the following communications from the West Virginia commission, numbered for convenience 1 and 2:

(1) The debt commission on the part of the State of West Virginia having this day been handed the following resolution adopted by the debt commission on the part of the State of Virginia:

Resolved, That it is the sense of this commission that in the conference to be held this day with the West Virginia commission, the subject for consideration and adjustment, as indicated by the court in its decision in this case, is the amount of interest which West Virginia should pay upon

the sum ascertained by the court to be West Virginia's share of the principal of said debt.

In reply thereto says: That in its judgment the interest, if any, which should be paid to the State of Virginia as stated in the foregoing resolution, is not the only question, as indicated by the language used by the Supreme Court of the United States in its opinion, which the joint commission, now in session, should consider.

(2) Whereas, the view of the Virginia debt commission on the part of West Virginia is that the present conference is for a preliminary discussion and exchange of views and for the added purpose of arranging a method for a more complete consideration of the matters involved, and adjusting a working programme; therefore, be it

Resolved, That the Virginia and West Virginia commissions shall each appoint a sub-committee, respectively, of three members, with instructions to confer at the earliest convenient time and place and to thoroughly discuss all matters involved, and endeavor to reach a final proposition that shall be submitted back to the two respective commissions, separately, for consideration by each, and for final determination at a joint conference to be subsequently arranged between the chairmen of the two committees; but nothing herein contained shall prejudice the rights of either party.

Respectfully replies that in its judgment the language of the Supreme Court does not admit of the foregoing construction to the effect that "the interest, if any, is not the only question" which the joint conference should consider.

The court said: "Among other things there still remains the question of interest." The Virginia commission understands this language to mean that there were "other things" to be considered by the court before it reached a final decree, and that among these other things the only one referred to the two States for adjustment was the question of interest.

The Virginia commission, being of opinion that there is no ambiguity in the opinion of the court, and that no conference as to any other matter than the question of interest is called for between the two commissions, respectfully adheres to the interpretation of the opinion and decision of the court as expressed in its prior communication of this date, and as elaborated in the remarks of Mr. Randolph Harrison, before the joint session of the two commissions.

It regrets, however, that the West Virginia commission has not indicated, as they were requested to do, what questions other than the question of interest should be, in their judgment, considered by the two States.

The Virginia commission further regrets that the West Virginia commission has not seen fit to indicate or suggest an amount, the payment of which they would recommend as a final compromise and adjustment of the proportion of the debt to be borne by West Virginia, as the Virginia commission specifically declared, through Mr. Harrison, that such proposal would receive most careful and respectful consideration, if the West Virginia commission saw fit to take up that subject.

Now, responding to the proposal of the West Virginia commission that a sub-committee of three should be formed from each commission, with instructions to consider all matters involved, and so forth, the Virginia commission respectfully says that it is agreeable to the appointment of such sub-committees, provided the matters to be considered by them are as indicated above, namely:

(1) The amount of interest which West Virginia should pay upon the sum ascertained by the court in its decision to be West Virginia's share of the principal of the debt.

(2) Any proposal which West Virginia may deem proper to submit for the final compromise settlement of the proportion of the debt to be borne by West Virginia.

Provided, further, that said sub-committees be directed to meet on the ..... day of ....., 1913, and report to an adjourned meeting of this joint conference to be held on the ..... day of ....., 1913.

Chairman Moon, of Virginia: I presume it is intended that the meeting of the sub-committees referred to, be held at this place; I do not know.

Chairman Mason, of West Virginia: I take it, gentlemen, that is only a qualified acceptance of the proposition made by us, and that we would want to discuss it further. Whether or not we would want to eliminate from the report to be made by the sub-committees, all questions except the payment of interest, and further, that the proposal of a basis for payment shall come from West Virginia, are questions that we would wish to consider.

I had hoped, gentlemen, you would feel free simply to leave the question open, and that the sub-committee when it met might discuss matters and make such report as it thought proper, insisting, of course, upon your notion about it.

Whether or not we would want to appoint a committee under those restrictions is a matter we would have to think about. I regret very much that you limit it in that way.

Chairman Moon, of Virginia: Would you suggest a separate session of your commission to consider that point?

Chairman Mason, of West Virginia: Yes. I think it will take but a few moments' time.

Chairman Moon, of Virginia: So we will leave you in executive session until you determine what position you will take upon that point.

Chairman Mason, of West Virginia: Yes. I am sorry, gentlemen, you put it in that way.

Conference Room of the Virginia Commission,
New Willard Hotel, Washington, D. C.,
9:30 o'clock, P. M.

Chairman Mason, of the West Virginia commission, appeared before the Virginia commission, and the following occurred:

Chairman Mason, of West Virginia: Gentlemen, the West Virginia commission elects me to report the following:

The West Virginia commission has received the following statement from the Virginia debt commission:

The Virginia commission, having received the following communications from the West Virginia commission, numbered for convenience 1 and 2:

(1) The debt commission on the part of the State of West Virginia having this day been handed the following resolution adopted by the debt commission on the part of the State of Virginia:

"Resolved, That it is the sense of this commission that in the conference to be held this day with the West Virginia commission, the subject for consideration and adjustment, as indicated by the court in its decision in this case, is the amount of interest which West Virginia should pay upon the sum ascertained by the court to be West Virginia's share of the principal of said debt."

In reply thereto says: That in its judgment the interest, if any, which should be paid to the State of Virginia as stated in the foregoing resolution, is not the only question, as indicated by the language used by the Supreme Court of the United States in its opinion, which the joint commission, now in session, should consider.

(2) Whereas, the view of the Virginia debt commission on the part of West Virginia is that the present conference is for a preliminary discussion and exchange of views and

for the added purpose of arranging a method for a more complete consideration of the matters involved, and adjusting a working programme; therefore, be it

Resolved, That the Virginia and West Virginia commissions shall each appoint a sub-committee, of three members, with instructions to confer at the earliest convenient time and place and to thoroughly discuss all matters involved, and endeavor to reach a final proposition that shall be submitted back to the two respective commissions, separately, for consideration by each, and for final determination at a joint conference to be subsequently arranged between the chairmen of the two committees; but nothing herein contained shall prejudice the rights of either party.

Respectfully replies that in its judgment the language of the Supreme Court does not admit of the foregoing construction to the effect that "the interest, if any, is not the only question," which the joint conference should consider.

The court said: "Among other things there still remains the question of interest." The Virginia commission understands this language to mean that there were "other things" to be considered by the court before it reached a final decree, and that among these other things the only one referred to the two States for adjustment was the question of interest.

The Virginia commission, being of opinion that there is no ambiguity in the opinion of the court, and that no conference as to any other matter than the question of interest is called for between the two commissions, respectfully adheres to the interpretation of the opinion and decision of the court, as expressed in its prior communication of this date, and as elaborated in the remarks of Mr. Randolph Harrison, before the joint session of the two commissions.

It regrets, however, that the West Virginia commission has not indicated, as they were requested to do, what questions other than the question of interest should be, in their judgment, considered by the two States.

The Virginia commission further regrets that the West Virginia commission has not seen fit to indicate or suggest an amount the payment of which they would recommend as a final compromise and adjustment of the proportion of the debt to be borne by West Virginia, as the Virginia commission specifically declared, through Mr. Harrison, that such proposal would receive most careful and respectful consideration, if the West Virginia commission saw fit to take up that subject.

Now, responding to the proposal of the West Virginia commission that a sub-committee of three should be formed from each commission, with instructions to consider all matters involved, and so forth, the Virginia commission respectfully says that it is agreeable to the appointment of such sub-committees, provided the matters to be considered by them are as indicated above, namely:

(1) The amount of interest which West Virginia should pay upon the sum ascertained by the court in its decision to be West Virginia's share of the principal of the debt.

(2) Any proposal which West Virginia may deem proper to submit for the final compromise settlement of the proportion of the debt to be borne by West Virginia.

Provided, further, that said sub-committees be directed to meet on the ..... days of ..... 1913, and report to an adjourned meeting of this joint conference to be held on the ..... day of .... 1913.

And in reply to the last communication of the Virginia debt commission, the West Virginia debt commission says that it is anxious to proceed with the negotiations but cannot consent to agree in advance that only the question of interest shall be considered, or that the West Virginia sub-committee shall be required to first submit a proposition looking to a settlement. This commission is willing and anxious to ap-

proach a settlement upon equal terms, leaving, in the first instance, all questions of procedure to the said sub-committees.

This committee did not understand the remarks made by Mr. Harrison to-day as a proposition. We considered only the written resolutions presented to us.

In reply to the remarks made by Mr. Harrison at the joint meeting to-day, and referred to in your communication, we would say that this commission does not feel sufficiently acquainted with the questions involved—for reasons heretofore stated—to submit a proposition at this time, and asks that the whole subject matter be submitted to the sub-committees hereinbefore referred to, with the understanding that the said sub-committees be required to report their action for approval to their respective commissions at a time in the near future to be now agreed upon.

Chairman Moon, of Virginia: What do we understand by "the whole matter"?

Chairman Mason, of West Virginia: Interest and all; everything to go to the sub-committee; and let it thresh it out, and let it make its report:

Mr. Harrison, of Virginia: You mean to reopen the whole case and consider the questions *de novo?* That is what you mean by "the whole matter," I suppose.

Chairman Mason, of West Virginia: That is our view. That is, we do not mean to go back to the courts, or to the commissioners; but we would consider among ourselves, that is, the sub-committee, and discuss the whole matter.

Mr. Flood, of Virginia: All other matters, as well as interest?

Chairman Mason, of West Virginia: All other matters, as well as interest; yes, sir. I do not mean, of course, to have this go back to the courts, or the commissioners, necessarily; but so far as we are concerned, in discussing and settling the matter, we want the whole question considered. We are not willing to say in advance that there is no question involved but interest.

Chairman Moon, of Virginia: Do not you misquote us in stating that we ask the proposition in advance? We do not ask it in advance, do we?

Chairman Mason, of West Virginia: No; I say it is not of very much interest who makes the first proposition of settlement, but you say that the sub-committee shall first make the proposition of settlement. Our idea is to leave that question of procedure to the sub-committees. It makes no difference which has the first say or which has the last say. We might make it a low figure, practically nothing, and then simply negotiate. It is our idea of procedure.

Chairman Moon, of Virginia: The impression made on my mind on hearing the resolution read, was that you intended to convey the idea that we required you first to make a proposition for compromise in settlement of the whole matter, to us. Is that what you intend to convey?

Chairman Mason, of West Virginia: Yes; that is the way we understood your second proposition.

Chairman Moon, of Virginia: The second proposition, not the first one.

Chairman Mason, of West Virginia: I say, your number two, in the last proposition.

Mr. Flood, of Virginia: Your objection to our second proposition is that we require first a suggestion of compromise to come from your sub-committee?

Chairman Mason, of West Virginia: Yes. We suggest now that that is a question of procedure and should be left open to the sub-committee; to leave it as a question of procedure.

Chairman Moon, of Virginia: To be entirely frank with you, it seems to me this morning this was made plain, that the court gave the principals, and that we presented the details upon which the interest might be computed, according to rules of interstate or international law, by which an accurate statement could be made up of the interest. That subject we do not expect to be considered, except as a whole.

And we invited some proposition from you gentlemen as to a settlement of the matter, inasmuch as the Supreme Court has discussed the matter and left it open, to a certain extent.

Chairman Mason, of West Virginia: I understand your view is that the Supreme Court has settled the question of amount. We do not look at it alike.

Chairman Moon, of Virginia. No, the amount of the principal.

Chairman Mason, of West Virginia: I say, the amount of the principal. We do not look at it that way. We want the whole matter to be taken up by the sub-committees, to see just what we ought to pay, if anything. Then it will come back to us in that shape. Our committee would not be willing to concede the fact that the only thing to be agreed upon was the question of interest.

Mr. Harrison, of Virginia: You mean, by "the whole subject matter," to reopen the whole case and consider the matters *de novo?*

Chairman Mason, of West Virginia: Yes, sir; that is as far as the commissions are concerned.

(After careful consideration of the above resolutions, a resolution in reply was adopted, and Chairman Moon proceeded to the conference room of the West Virginia commission, where the following occurred:

Conference Room of the West Virginia Commission,
New Willard Hotel, Washington, D. C.,
11:15 o'clock, P. M.

Chairman Moon, of Virginia: The Virginia commission has instructed me to give you the following communication:

The Virginia commission has given careful consideration to the last communication from the West Virginia commission stating in effect that the conference between the two

commssions must embrace a consideration *de novo* of the entire case, both as to principal and interest involved.

The Virginia commission for reasons heretofore repeatedly stated feels constrained to decline the terms proposed by the West Virginia commission as the basis upon which the conference must proceed.

Chairman Mason, of West Virginia: That being true, are we through?

Chairman Moon, of Virginia: I do not know. You gentlemen can consider that matter. I have no authority to speak for the Virginia commission except to deliver that message. We give that to you for your consideration.

Chairman Mason: We made you a proposition.

Chairman Moon, of Virginia: Yes, I know; but I have no authority beyond that paper.

Chairman Mason, of West Virginia: If you have reached that conclusion, it is not necessary for us to continue our negotiations for the present.

Chairman Moon, of Virginia: That is for you to say.

Chairman Mason, of West Virginia: No, that is not for us. We have said we could not do the other; you say you can not do this.

Chairman Moon, of Virginia: We say that we feel constrained to decline to continue negotiations upon the basis which you propose.

Chairman Mason, of West Virginia: Yes.

Chairman Moon, of Virginia: Now, the question is, what the basis is.

Chairman Mason, of West Virginia: The basis is, as I understand it, that you will insist upon your contention that the only question to be considered is the question of interest.

Chairman Moon, of Virginia: Oh, no. It is all set forth at length in our communications. I am not undertaking to speak for the Virginia commission in this respect.

Chairman Mason, of West Virginia: I do not understand
t what shape that leaves us in. If it is simply to stop
further negotiations about it, we might as well do it at
time as another.

Chairman Moon, of Virginia: I did not write that reso-
ion. It was drawn by the members of the Virginia com-
ssion, and they have passed it. I have no authority ex-
t to deliver it to you for your consideration. We regret
y much that negotiations can not proceed on a different
is; that is all.

Chairman Mason, of West Virginia: So do we. But let
remain in session for a few minutes, and we will see
ether we will quit, or not.

Chairman Moon, of Virginia: Certainly.

Conference Room of the Virginia Commission.
New Willard Hotel, Washington, D. C.,
12:05 o'clock, Midnight.

Chairman Mason, of the West Virginia commission ap-
ared before the Virginia commission, and presented the
llowing resolution:

The following communication was received from the Vir-
nia commission after 11 o'clock P. M.

The Virginia commission has given careful consideration
the last communication from the West Virginia commis-
n, stating, in effect, that the conference between the two
mmissions must embrace a consideration *de novo* of the
tire case, both as to the principal and interest involved.

The Virginia commission for reasons heretofore repeat-
lly stated feels constrained to decline the terms proposed
the West Virginia commission as the basis upon which the
nference must proceed.

Pending a consideration of the communication Mr. Miller moved that owing to the lateness of the hour at which the communication was received, the further consideration of the same be postponed until to-morrow morning, July 26, 1913, at 10 o'clock and that the West Virginia commission adjourn until that hour.

Which motion was put by the chair and carried by the unanimous vote of the commission, at 12 o'clock midnight.

(In pursuance of the above resolution, further proceedings were adjourned until to-morrow, Saturday, July 26, 1913, at 10 o'clock A. M.)

Saturday, July 26, 1913.
Conference Room of the Virginia Commission,
11:40 o'clock A. M.

Chairman Mason, of West Virginia, appeared before the Virginia commission and presented the following resolution:

The Virginia debt commission on the part of the State of West Virginia received at 11:15 last night the following communication from the Virginia commission:

The Virginia commission has given careful consideration to the last communication from the West Virginia commission, stating, in effect, that the conference between the two commissions must embrace a consideration *de novo* of the entire case, both as to the principal and interest involved.

The Virginia commission for reasons heretofore repeatedly stated feels constrained to decline the terms proposed by the West Virginia commission as the basis upon which the conference must proceed.

In reply to the foregoing communication the West Virginia commission regrets that the Virginia commission has declined to submit the matters in question to a sub-committee,

as heretofore proposed by the West Virginia commission, and the West Virginia commission now suggests that the two commissions have a joint meeting on the ..... day of ....., at ....., for the purpose of further considering a settlement of West Virginia's proportion, if any, of the Virginia debt proper to be borne by the State of West Virginia and to arrive, if possible, at some adjustment thereof.

(The above resolutions were considered by the Virginia commission, a reply adopted, and Chairman Moon proceeded to the conference room of the West Virginia commission to present the same.)

Conference Room of the West Virginia Commission.
New Willard Hotel.
12:30 o'clock, P. M.

Chairman Moon, of Virginia: I am instructed by the Virginia commission to present to you the following communication:

The Virginia commission have considered the suggestion of the West Virginia commission for an adjournment of the conference between the two commissions.

If it is the purpose of the West Virginia commission to insist that the joint conference shall embrace a consideration *de novo* of the entire case, both as to principal and interest involved, then the Virginia commission can perceive no advantage to result from further negotiations. The Virginia commission cannot recede from their views as heretofore announced to the West Virginia commission in respect to the matters to be embraced in the conference between the two commissions.

With this understanding it consents to the adjournment of the conference to Tuesday, August 12, 1913, at 10 o'clock A. M., at the New Willard Hotel, Washington.

Conference Room of the Virginia Commission,
New Willard Hotel,
3:00 o'clock, P. M.

Chairman Mason, of the West Virginia Commission, appeared before the Virginia commission and presented the following resolution:

The West Virginia commission acknowledge receipt of the communication from the Virginia commission concurring in the suggested adjournment upon certain terms and conditions, which terms and conditions the West Virginia commission declines to be bound by. We, however, agree to the time and place of adjournment suggested by you and insist that this adjournment shall be, and is, without terms or conditions and without prejudice to the rights of either party.

(After an informal discussion, the conference at 3:30 o'clock P. M., adjourned to meet on Tuesday, August 12, 1913, at 10 o'clock A. M., at the New Willard Hotel, Washington, D. C.)

Correct:

JOHN B. MOON,
Chairman Virginia Commission.